

September 13, 2004

REMARKS

Claims 1-10 stand pending in the instant application. No claims have been allowed.

Claim Rejections Under 35 USC 103(a)

Claims 1-6 and 8-9 stand rejected under 35 USC §103(a) as being obvious over Kranig et al. in view of Jurgetz et al., both of record. The Applicants respectfully traverse this rejection.

The instantly recited composition unexpectedly provides low gloss finishes from a combination of unsaturated polyester and glycidyl acrylic resin, along with a (semi)crystalline polycarboxylic acid or anhydride and a free radical initiator. See, for example, the instant specification at page 2, line 19 to page 3, line 4.

The rejection admits that Kranig et al. do not disclose, teach or suggest both of the instantly recited crystalline or semi-crystalline polycarboxylic acid or anhydride having an acid number of from 50 to 400. In addition, Kranig et al. do not disclose both of the instantly recited crystalline or semi-crystalline polycarboxylic acid or anhydride and the unsaturated polyester. Further, Kranig et al. do not disclose, teach or suggest a composition for providing a low gloss finish or the low gloss coating or coated substrate, as instantly recited.

The rejection attempts to combine Jurgetz et al. with Kranig et al. to address the shortcomings of Kranig et al. However, neither of Kranig et al. or Jurgetz et al. suggests the desirability of their combination. See MPEP 2143.01. It is not enough that the references "can be" combined if they do not suggest a reason for doing so. The argument that the combination enhances the stability of Kranig et al. is speculative and is improper because Kranig et al. does not present any evidence of stability problems. It is incumbent upon the Office to provide a reason suggesting the desirability of combining Jurgetz et al. with Kranig et al., and this burden has not been met.

Further, Jurgetz et al. evidences no reasonable expectation that its combination with Kranig et al. can provide the instantly recited powder

September 13, 2004

composition for forming a low gloss finish. See MPEP 2143.02. In fact, Jurgetz et al. seeks to provide clear coating finishes "without a detrimental effect on the appearance properties of the coating" (col. 2, lines 6-10); adds carboxylic "crystalline crosslinkers" to glycidyl acrylic polymers (See abstract) for the purpose of improving the appearance of the coating finishes (col. 7, lines 51-55, especially line 55); and equates improved appearance with high gloss, so high that must be measured on a 20° Gloss Meter which measures only high gloss (col. 16, lines 30-32 and April 29, 2004 Amendment and Response, at bottom of p.7, referring to ASTM D 523-89 (1999) at p. 1, 4.1.2.). Accordingly, in proceeding according to the accepted wisdom of Jurgetz et al., a composition for forming a high gloss coating would result.

At the very least, the ordinary skilled artisan would have to proceed contrary to the wisdom in Jurgetz et al. to arrive at the presently recited low gloss coating finish, and methods to make, of claims 6-10. See MPEP 2145.X.D.3.

Claims 7 and 10 stand rejected under 35 USC §103(a) as being obvious over Kranig et al. in view of Jurgetz et al., both of record, further in view of Muthiah et al. The Applicants respectfully traverse this rejection.

Muthiah et al. fails to remedy the deficiencies of Kranig et al. and fails to teach any of the crystalline or semicrystalline carboxylic acid or anhydride, as is instantly claimed, or the glycidyl functional acrylic resin, as is instantly claimed, or any powder coating composition for providing a low gloss surface finish, as is claimed. Muthiah et al. also fails to provide any suggestion as to the desirability of combining Kranig et al. or Jurgetz et al. and does not remedy the fact that Jurgetz et al. provides only high gloss finishes and compositions therefore.

The Applicants respectfully request the reconsideration and the withdrawal of all rejections over Kranig et al., Jurgetz et al. or Muthiah et al., either taken alone or in combination.

September 13, 2004

CONCLUSION

Based on the foregoing, the instant claims are believed to be in current condition for allowance. An early and favorable response is earnestly solicited. If the Examiner has any questions concerning the instant application or suggestions relating to allowability, she is urged to contact the undersigned at the number given below.

No fees are believed due. In the event that any fees are found owing, please charge deposit account no. 18-1850.

Respectfully, submitted



Andrew E. C. Merriam
Attorney for Applicants
Registration No. 47,268
(215) 592-6758

Rohm and Haas Company
100 Independence Mall West
Philadelphia, PA 19106